

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NICHOLAS W. NOVAK,

Plaintiff,

Civil Case No. 22-10315  
Honorable Linda V. Parker

v.

CITY OF MADISON HEIGHTS, et al.,

Defendants.

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**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S MARCH  
13, 2023 REPORT AND RECOMMENDATION AND DENYING THE CITY  
OF MADISON HEIGHTS DEFENDANTS’ MOTION TO DISMISS**

On February 15, 2022, Plaintiff commenced this lawsuit against Defendants State of Michigan, the City of Madison Heights and several individuals associated with the City (“City of Madison Heights Defendants”), and Texas Roadhouse. Only the City of Madison Heights Defendants remain in this action. They filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 41(b) on December 13, 2022. The matter has been assigned to Magistrate Judge Anthony P. Patti for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B).

On March 13, Magistrate Judge Patti issued a report and recommendation (“R&R”) recommending that the Court deny the City of Madison Heights Defendants’ motion and set a June 20, 2023 deadline for dispositive motions. (ECF No. 36.) At the conclusion of the R&R, Magistrate Judge Patti advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Patti. The Court therefore adopts the R&R.

Accordingly,

**IT IS ORDERED** that the City of Madison Heights Defendants’ Motion to Dismiss (ECF No. 34) is **DENIED**.

**IT IS FURTHER ORDERED** that the deadline for dispositive motions pursuant to Federal Rules of Civil Procedure 12 or 56 is June 20, 2023, but only one additional dispositive motion is permitted from each side.

Date: April 6, 2023

s/Linda V. Parker  
LINDA V. PARKER  
UNITED STATES DISTRICT JUDGE